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Eighth session

SUMMARY RECORD OF THE 193rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 16 January 1995, at 3 p.m.

Chairperson: Mrs. BADRAN

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Poland (continued) (CRC/C/8/Add.11; CRC/C/8/WP.4; HR/CORE/Add.25)

1. The CHAIRPERSON invited the Polish delegation to respond to the questions raised by members of the Committee at the previous meeting.

2. Mr. JAKUBOWIAK (Poland), responding to general remarks, assured the members of the Committee that the obligation to report to the Government on the outcome of the dialogue with the Committee and to circulate all relevant documentation would be fully complied with. As to the international aid pledged to Poland, although there were no official data available on the exact amount of aid involved, he was certain that the greater part of it would be used for children's medical facilities and cancer wards. Furthermore, the Government was already cooperating successfully with non-governmental organizations (NGOs) on a number of projects, including the building of centres for children with special needs or disabilities in which facilities would be set up by internationally-backed NGOs and sufficient funds to run them provided by the Government. There were two basic laws regulating government cooperation with NGOs. The first contained guidelines on NGO activities and NGO reporting obligations and spending of government funds. The second, which listed the special tasks traditionally allocated to NGOs (running special care facilities, recreation and rehabilitation centres) was intended to assist government ministries in budgetary planning. It had recently been reviewed to cover more tasks which were now allocated among NGOs on a more competitive basis.

3. A joint commission had been set up by the Government two years previously to ensure proper coordination with NGOs and local authorities. Under recent legislation, greater powers had been delegated to the local authorities, particularly in the health sector, for, inter alia, out-patient clinics, some hospitals, schools and social services. Nevertheless, the mechanism in place to monitor such activities needed to be strengthened. Since funding arrangements were being reviewed, the Government now required more detailed and reliable information. Appropriate questionnaires were being prepared by the relevant ministries and would, it was hoped, be circulated to local authorities in 1995. The costs of the project would be covered by the "PHARE" operation. Further funding expected included a World Bank loan of approximately US$ 130 million for restructuring, from which children would undoubtedly benefit indirectly, since the quality of service at out-patient clinics would be improved. The "PHARE" operation would also provide funds for the education sector.

4. Admittedly, efficient monitoring of NGO activities was a difficult issue, because NGOs were on the increase and were seeking greater independence. None the less, cooperation had improved significantly under the new Government and problems could now be thrashed out in the joint commission.

5. Mr. WIŚNIEWSKI (Poland) said that the system of care and support for the disabled formerly run by the Polish Red Cross Association and centrally funded by the Ministry of Health was a good illustration of the way greater financial

and other responsibilities were delegated to the local authorities and non-governmental organizations. How funds should be spent was now decided at local level, in accordance with requirements. Members of the Committee had observed that the mechanism for monitoring such activities could function more effectively. In his view, the problem lay at the national level, where a better data collection system was required.

6. Mr. JAKUBOWIAK (Poland) added that the current reporting system by local authorities to the relevant government ministries must be improved.

7. Ms. SKOCZYŃSKA-SOROKO (Poland), providing further clarifications on the situation of neglected children, said it was not only the police force but also the welfare and family probation services that were obliged to report cases of neglect to the family courts. All citizens whose rights were violated, including children, were entitled to address complaints to the Ombudsman, who had been appointed by Parliament in 1988. Moreover, any adult who feared for a child's well-being could refer the matter directly to the family court or through the welfare services and the police. Under Polish law, children who addressed their complaints directly to the family court must be given a proper hearing.

8. Mr. JAKUBOWIAK (Poland) said that, although the mechanism for processing complaints existed, there were perhaps some problems with its practical implementation.

9. Mr. SAWICKI (Poland) said that in cases of alleged child neglect the institutions concerned were obliged to furnish the Ombudsman with all the facts, for the Ombudsman was also empowered to bring such cases before the Constitutional Court. The institution of an Ombudsman for Pupils' Rights had been operating effectively in some State schools for a number of years on an informal basis. It was therefore intended to amend the Education Law to allow for the appointment of such an ombudsman in more State secondary schools.

10. Information on the Convention on the Rights of the Child was incorporated in the curricula for national primary and secondary schools, with appropriate text books on human rights and special colour posters for younger children that spelled out the basic principles of the Convention in easily understandable language. One problem, however, was the shortage of specially trained teachers on human rights matters. In 1993 and 1994 a number of special training courses had been organized at the national and local levels as a result of which there were now around 1,000 qualified teachers. Training courses and workshops had also been arranged on a variety of subjects pertaining to children and youth problems. In addition, schools had a system for handling complaints from students about class teachers. More serious problems could be referred to the national network of child psychologists.

11. Mr. JAKUBOWIAK (Poland) explained that the network of child psychologists had been set up only four years previously but was already making great strides in programmes for the early detection of pathological tendencies in children. There were large numbers of qualified psychologists and other child care specialists in Poland, since such disciplines had been popular during the 1970s and 1980s; he was confident that they would adapt quickly to the new situation in the country.

12. The rights of the child and particularly those of the disabled child were given due attention by the Sejm and a keen interest in such topical issues was guaranteed to increase popular support for politicians. Budgetary constraints were of course a problem, but it was unlikely that any political parties would object to priority being given to children's issues in the forthcoming budget - their situation was therefore bound to improve in the near future.

13. Mr. WIŚNIEWSKI (Poland) assured members of the Committee that the Government attached priority to social policy. In fact, it was one of the few issues on which the different political parties currently agreed. However, implementation of the social policy entailed a number of practical problems, not least how to provide adequate assistance within limited budgetary resources. Regrettably, the expectations of Polish society were very high, for under the former socialist regime there had been many social benefits such as free education, medical care and subsidized holidays for children. Now, with the introduction of reforms, the public was being asked to contribute in some way, something which naturally proved controversial. The Government was therefore striving to accompany the reforms by effective assistance programmes targeted at the people most in need. As to the reference made to the impossibility of extending such assistance programmes, he assured the Committee that the people most in need would not suffer in any way: persons living below the poverty line in Poland were guaranteed financial support by the local authorities.

14. Mr. SAWICKI (Poland), referring to opportunities for the public to express their opinions on proposals, said that article 55 of the Education Law provided for the possibility of appointing pupils' representatives to present their proposals and opinions on all school matters, and in particular on the implementation of pupils' basic rights. Pupils' representatives were also entitled to participate in school councils, whose task was to solve internal school problems. Those councils were tripartite bodies made up of equal numbers of representatives of teachers, parents and pupils.

15. Ms. SKOCZYŃSKA-SOROKO (Poland) said that the Office of the Ombudsman had considerable powers, including the right to require the authorities to provide explanations regarding specific problems. If a legal problem existed, the Ombudsman could apply to the Constitutional Court with a view to securing amendments to existing legislation. The Office had tended to adopt an aggressive approach, and had abundant material resources at its disposal. The first Polish Ombudsman had been a recipient of the Council of Europe's "Woman of Europe" award; and the current incumbent had been proposed by several political parties as a candidate for the presidency, having regard to his very active role as Ombudsman.

16. Mr. JAKUBOWIAK (Poland) said that the unofficial powers of the Ombudsman were considerable, since public opinion was extremely sensitive to official responses to the questions the Ombudsman raised. All in all, it could be said that the system was functioning as intended.

17. It was proving difficult to meet the needs of disabled children, because of the very large numbers involved. Unfortunately, there was no precise definition of disability in Poland. Thus, official sources gave the number of disabled children as over 300,000, but according to one non-governmental

organization the real figure was in excess of 700,000. The Government was developing a network of institutions, most of them run by NGOs to fill existing gaps in health care for the disabled. In addition, some years previously, a National Fund for the Disabled had been established and considerable sums were allocated specifically for disabled children. The new legislation had also established an additional fund intended to create workplaces for the disabled, rehabilitation premises, and so on. Some of the resources from that fund, which amounted to some Zl 4 billion, were also channelled to disabled children.

18. Mr. WIŚNIEWSKI (Poland), referring to the freedom of children to hold and express opinions of their own, said that it was a complex issue and was to some extent linked with Poland's reservation to the Convention. To secure a fundamental change in attitude was a long and difficult process. The traditional model of the family, which was the norm in rural areas, was strongly parent-oriented. Under that system, some human rights of the child tended to be neglected; on the other hand, it had to be said that that model assigned the utmost importance to what might be termed the child's "social" rights, with parents making considerable sacrifices to ensure their children's material welfare.

19. The first step towards changing traditional attitudes and doing away with stereotypes was to promote an awareness that change was indeed necessary. Non-governmental organizations had a very important role to play in that field, for changes in patterns of thinking could not be imposed by governmental edict, particularly as the legacy of the socialist era had left the public somewhat reluctant to accept central government regulation. Non-governmental organizations were thus at an advantage in that regard. However, part of government strategy was to bring about change through the educational system, using the curriculum to promote the idea of the human rights of the child. Yet it was impossible even to contemplate the democratization of the school system as a whole if schools themselves were not democratized, a process that involved the participation of all partners, including the pupils, but some teachers were reluctant to countenance such changes. Last but not least, the media played an important role in fostering those changes. The report (CRC/C/8/Add.11) referred to the role of television in that regard, but the press, too, was campaigning to promote change, often in cooperation with NGOs. Nevertheless, it might take a generation to bring about the requisite change. Poland's accession to the Convention, and in particular its dialogue with the Committee under the procedure for reporting on implementation, were playing a key role in accelerating that process.

20. At the forthcoming special meeting of the Committee of the Council of Ministers, one topic that would no doubt be discussed in the context of the presentation of Poland's initial report and the recommendations of the Committee on the Rights of the Child was the possibility of Poland's withdrawing its reservation to the Convention. It was his personal hope that the reservation would be withdrawn, but he was not in a position to make any formal statement on the question.

21. THE CHAIRPERSON thanked the Polish delegation for its frank and open replies, and invited further questions or comments from members of the Committee.

22. Mrs. SANTOS PAIS said the Committee recognized that stereotypes could not be swept away overnight: hence its request for more precise information on campaigns and training undertaken with a view to changing attitudes. As the Council of Ministers was shortly to discuss the Committee's recommendations, she wished to stress that withdrawal of Poland's reservation, while it would do little to improve the situation in the short term, would be an important demonstration of the Government's political commitment.

23. As to social policy, her concern was to ascertain how the authorities could best evaluate the present situation in order to establish what groups required special treatment - children from families headed by an unemployed mother, for example. No doubt the Polish delegation would provide further information on that matter in the course of the discussion. On the question of the Ombudsman for Pupils' Rights, regardless of the good work that official might be doing, there was a danger that, when an ombudsman had no legal status, as was recognized to be the case in paragraph 49 of the initial report, his or her recommendations might not be heeded by those to whom they were addressed. That was why the Committee wished to ascertain whether an institutionalized approach existed.

24. Mgr. BAMBAREN GASTELUMENDI, reverting to issue No. 6 (CRC/C.8/WP.4), said that the Polish delegation had provided details of measures taken at government level, but had given no information on specific training measures targeted on those more closely involved with children - teachers, judges, law enforcement officials and families - with a view to securing a change in attitudes.

25. Mr. HAMMARBERG said that, while the ad hoc training courses for professionals were a positive step in the short term, it was also important to establish a systematic long-term approach to the training and retraining of professionals in all fields, so as to integrate the values and principles of the Convention in the basic training of all professional groups.

26. It was clear from the input by NGOs that there had been a debate in Poland on the merits of establishing a special ombudsman in the field of children's rights. The Committee had no preconception about what might constitute the best model; in some countries, the People's Ombudsman was also assigned responsibility with regard to children's rights. If that model was adopted, however, it was important for the Ombudsman to have the resources to deal effectively with the special interests of children. How had the authorities ascertained that the expertise available to the Office of the Ombudsman obviated the need for a special ombudsman for children?

27. On the question of devolution to local level of authority to allocate funds for social benefits, there was a danger that the criteria for determining levels of allowances to the needy might vary from municipality to municipality. Had any norms been established with a view to avoiding discrepancies?

28. Mr. KOLOSOV said it was clear that the report, together with the annexed material and the ensuing dialogue, afforded a full picture of the situation of children living in normal circumstances in Poland. He thus proposed that the Committee should move directly to consideration of measures taken to deal with

children living in especially difficult circumstances, who constituted a particularly significant group in all the Eastern European States undergoing transition.

29. Mrs. SARDENBERG said she saw the merit in Mr. Kolosov's proposal, but thought that the Committee should first focus on the section of the list of issues dealing with general principles (CRC/C.8/WP.4).

30. Mrs. SANTOS PAIS said she was not opposed to making special protection measures a priority area for discussion. However, the Committee should first deal with the section on general principles, as a means of giving greater focus to the subsequent discussion concerning special protection measures.

31. The CHAIRPERSON said there was no conflict between the two proposals. Questions and remarks concerning general principles could be linked to consideration of the effect of those principles on children in especially difficult circumstances.

32. Mrs. SARDENBERG, referring to the principle of non-discrimination, asked whether there was a balanced distribution of educational facilities between children in urban and rural areas. Did any special programmes exist to combat discrimination against HIV-positive children? Were there discrepancies between the treatment of boys and of girls in schools? In that regard, she noted an apparent lack of data on education disaggregated by sex.

33. Mrs. SANTOS PAIS said that she would like to gain a better understanding of the policy towards minorities. The Committee had been told that the Government took the education of religious minorities very seriously, but it was not clear exactly what provision was made for gypsy children. Once again, the need to change attitudes lay at the root of the problem, for Polish society seemed to view gypsies as dangerous outsiders. What was being done to overcome that attitude and to integrate gypsy children in society without jeopardizing their cultural identity.

34. The question of the education of girls should be viewed in conjunction with the question of the age of marriage, which was 21 for men and 18 for women, even though the age of majority was 18 for both sexes. Furthermore, girls could marry at 16 with their parents' consent, whereupon they would lose the protection of the Convention. What was the reason for the difference?

35. With regard to the best interests of the child, Polish legislation rightly spoke of ensuring the well-being of the child, but the question seemed to be viewed only from the economic and social angle. She was not sure that the feelings and wishes of the children themselves were always taken into account. Furthermore, the provisions of the Family and Guardianship Code concerning the rights and duties of parents were not fully consistent with article 5 of the Convention. The Code seemed to place the emphasis on the right of parents to provide guidance to their children in exercising their rights. In fact, the emphasis should be on the actual exercise of the rights by the children. As to issue No. 16, the provision of Polish law concerning "inadvisability for educational reasons" might lead to subjective interpretations by the courts that would result in a failure to take the views of the child fully into account.

36. Mr. HAMMARBERG said that he would like some information about the findings of the commission of inquiry set up to investigate the rioting against gypsies in 1991, in particular about the root causes of the trouble and the action taken to prevent any further incidents.

37. Mgr. BAMBAREN GASTELUMENDI said that women still seemed to be discriminated against in terms of wages and salaries and access to jobs and professions. There was also discrimination against single mothers: media reports indicated that they were not socially accepted and suffered a deep sense of shame. In some cases, the result was the death or abandonment of new-born children. He would like further information on those two questions of discrimination.

38. Mrs. EUFEMIO said that she would like more information about the extent to which children were able to express their opinions on matters of obedience within the family. Furthermore, could children express a preference in the event of the separation of their parents and was there an age from which they could consent to adoption? It was an important issue because the opportunity to express opinions built up a child's sense of identity in preparation for adult life.

39. Mr. KOLOSOV pointed out that the Convention prohibited discrimination, on the grounds, inter alia, of the wealth of the child's parents. During the socialist era there had not been great differences of wealth in Poland, but now there were very rich people and very poor people. There was certainly no legal discrimination on the grounds of wealth, but a natural discrimination must in fact exist. For example, the children of wealthy parents were privileged in terms of education, foreign travel, and so on. That situation gave rise to dangerous feelings of envy in poorer children whose desire to earn money might lead to their exploitation in the informal labour sector. Children might also seek to obtain money illegally by means of crime or prostitution. He would like to know what measures were taken to protect such children and whether the trend was a worsening one.

The meeting was suspended at 4.50 p.m. and resumed at 5.10 p.m.

40. Mr. JAKUBOWIAK (Poland) said that there were no systematic arrangements for the education of minority groups, but the question was under consideration. The ombudsmen for pupil's rights were increasing in number and quality. They were not yet fulfilling all expectations, but there were no plans to make any changes at present. With regard to decentralization, the law established the general structure and regulations, but some small differences still persisted between regions in the equality of treatment of children.

41. The number of children affected by AIDS was very small. Effective services were provided for them by NGOs, some of them funded by the State, in special institutions. There had been some antagonism towards HIV-infected persons in the early 1990s, accompanied by much discussion in the media. Great progress had since been made, and people's attitudes were now more enlightened. The official approach to the problem was better integrated and

began with education in schools. Fortunately, Polish society was basically very tolerant. The Government was still not entirely satisfied with the situation and was actively pursuing its efforts.

42. Mr. KUZNIAR (Poland) pointed out that evidence of Poland's attitude towards HIV-infected persons was provided by its sponsorship of a resolution on AIDS at the latest session of the Commission on Human Rights.

43. Only 3 to 4 per cent of Poland's population belonged to minorities. The law took a dual approach: Poland had signed bilateral treaties with seven of its neighbours in order to safeguard the rights of national minorities and it had signed multilateral treaties with several international organizations. The Government sometimes lacked the resources to implement the law, but it did not lack the political will to do so. No complaints had been lodged with international bodies by members of minority groups, but that did not mean that no problems existed.

44. Mr. SAWICKI (Poland) said that there were about 25,000 gypsies in Poland. Polish legislation on the education of minorities was well up to international standards and there were many special schools for national minorities and gypsies. However, the gypsies posed special educational problems because of their way of life. There were some 12 primary schools and 4 or 5 vocational schools for gypsies, mostly in southern Poland. They formed part of an experimental programme for children in the 7 to 15 age range who had not attended school before and were learning to read and write for the first time. The programme was being monitored in conjunction with representatives of gypsy associations, who were themselves divided on the question of gypsy education. There was no information, for example, on how many gypsy children attended normal schools, and the Government was funding a questionnaire on the educational needs of such children. It must be remembered that the problem remained unsolved in most European countries.

45. Mr. JAKUBOWIAK (Poland) said that, in fact, a commission had been established to investigate the rioting mentioned by Mr. Hammarberg and to formulate recommendations to the Government. A conference had also been held recently at the ministerial level and chaired by the Polish Prime Minister, to prepare a report on all aspects of the gypsy question. The gypsy population in Poland was made up of Polish citizens and an influx of Romanian immigrants, which gave rise to a number of problems, including medical problems. The issue had received wide coverage in the national press and progress had been made in educating Polish society about the treatment of gypsies.

46. Mr. SAWICKI said that approximately 90 per cent of the school population were Catholic, 7 per cent were a mixture of other denominations, and 1 per cent professed no religion. Only a handful of complaints had been lodged about religious discrimination in schools in the past two years.

47. There were indeed differences between rural and urban schools and they could be largely attributed to cultural differences. A larger portion of the national education budget was allocated to rural schools and teachers' salaries differed. While primary and post-primary schools did exist in all regions, comprehensive secondary education was available for the most part

only in the towns and cities. In any event, children from rural schools, usually went on to agricultural schools. While boys and girls each constituted 50 per cent of the student body of primary schools, reflecting the normal ratio of the population at large, no figures were available for secondary schools.

48. Ms. SKOCZYŃSKA-SOROKO (Poland) said that there were natural reasons for establishing a different legal age of matrimony for boys and girls. Furthermore, the law allowed for the age to drop from 21 to 18 for boys and 18 to 16 for girls if the girl was pregnant and marriage would be appropriate in order to meet the needs of the unborn child. That measure was considered not discriminatory but protective.

49. Mr. JAKUBOWIAK said trends showed that, although equality of the sexes in the workplace was a reality in the public sector, it would prove difficult to achieve in the private sector, and especially in small businesses, where the traditional distinction between men's and women's work still prevailed.

50. Mrs. SANTOS PAIS said that, although few cases had been recorded in Poland, it should be recognized that the AIDS problem was usually ignored until the disease began to affect a significant portion of the population. Consequently, an AIDS-education campaign should be launched at once, to promote preventive measures and foster tolerance, thereby helping to protect children whose lives might eventually be affected.

51. Secondly, while gypsies everywhere were barely tolerated members of the population, the recent anti-gypsy riots in Poland indicated an unusally hostile environment. Although efforts had been made to bring perpetrators of those violent acts to justice, decisions had been taken thus far in only 17 cases, while 10 cases were still pending. The Polish people might well conclude from such an outcome that violent incidents were based on racial prejudice.

52. Again, the legal age for contracting marriage should be the same for boys and girls; there was no reason to treat them differently. Furthermore, was not a girl of 16 too young to become a mother? Did marriage at that age not hamper the educational and leisure activities necessary for her full development? Such distinctions written into law tended to perpetuate two different sets of attitudes: for example, that boys should go out to work while girls should stay at home. The task of the Convention was to alter attitudes toward children, and especially toward girls.

53. Mr. KOLOSOV asked for further information on the criminal responsibility of young offenders, including a description of the most typical types of juvenile crime. A description would also be useful of the conditions in correctional institutions for young persons. What measures, if any, had been taken to monitor such places? Furthermore, was prostitution by young girls on the decline or was it on the increase? It would be interesting to know what the attitude of Polish society was towards young prostitutes and also to children working in the street. Were measures taken to discourage vending

and begging by children and to prevent adult beggars from using children? Finally, what was the plight of abandoned children, and what were the conditions in orphanages?

54. Mr. HAMMARBERG said data provided by the non-governmental community demonstrated that, like many other countries in the world, Poland suffered from a high level of domestic violence. Polish State Hygiene Department statistics for 1992 showed that 182 abused children had been hospitalized and 14 had died. Moreover, those figures were not considered complete. In addition, children were sometimes beaten in schools. Inviting parents to take part in decisions on the ways in which their children would be rewarded or punished did not safeguard the children from physical ill-treatment. There were cases in which parents sometimes encouraged teachers to use corporal punishment. More information should be provided on physical abuse in schools and other institutions, as well as in the home, and on any measures taken to deal with the problem.

55. Mrs. SARDENBERG said that the Polish delegation had stressed the cultural differences between schools in urban and rural areas. It would be useful to consider whether school curricula could be changed to take into consideration the specific needs of each area and to bring schools more into conformity with the requirements of the Convention. In addition, the Polish delegation had suggested that the differing enrolment rates for girls and boys in secondary vocational and general schools could be explained by differing needs. In her view, however, those differences merely reflect societal attitudes towards gender. Lastly, was the Polish Government formulating new programmes to educate children in the principles of non-discrimination?

56. Mgr. BAMBAREN GASTELUMENDI said that, considering the growing number of Polish children adopted by foreign parents, it would be helpful to know Poland's position with regard to The Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees relating to Adoption. Information would also be welcome on any new measures undertaken to halt the sale and abduction of children for commercial purposes.

57. The CHAIRPERSON said the 1994 Human Development Report had shown that the average age of marriage for women in Poland was 22.8 years, suggesting that national legislation should be rewritten to bring it into conformity with reality. There were a large number of women in the Polish labour force and marriage age usually rose when women went out to work. In the transition to an open market economy, however, unemployment usually hit women first. Fifteen per cent of Polish households were headed by women, who were probably also mothers. What provisions had been adopted to protect those women from dismissal from their jobs and to mitigate the effect on children?

58. Miss MASON said that Poland was engaged in the production, sale and distribution of land-mines to other countries, something which violated the rights not of Polish children but of other children throughout the world. Land-mines killed and maimed children and they destroyed agricultural land, thereby producing poverty, and bringing harm to children in other ways. In view of its commitment to international cooperation, how did Poland view the

export of such weapons, which violated the rights of foreign children? Would Poland heed the request of the Executive Director of UNICEF and ban the production of land-mines?

59. Furthermore, it would be useful to know if Poland had considered ways of developing viable alternative sources of income to dissuade young girls from engaging in prostitution. Again, what was the usual procedure for dealing with sexual abuse within the family? How severely were those who abused young children - fathers, brothers, uncles, for instance - prosecuted? How common was sexual abuse of girls and boys and had a link been established between such abuse and later entry into prostitution?

The meeting rose at 6.15 p.m.